IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 4992 of 2007(T)

IA.1192/2006 of SUB COURT,KOTTARAKKARA
OS.9/2002 of MUNSIFF COURT, KOTTARAKKARA

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PETITIONER:

1. C.K.THANKAMMAL, AGED YEARS,
W/O.LATE P.VISWANATHAN, SREEVILASOM,
NEDUMGOLAM P.O., PARAVUR, KOLLAM.

2. T.V.SREELEKHA, AGED YEARS,
D/O.LATE P.VISWANATHAN, SIVAMANGALAM,
K.P.4/46 VELLAYANI, NEMOM, THIRUVANANTHAPURAM.

3. T.V.SREELAL, AGED YEARS,
S/O.LATE P.VISWANATHAN, SREEVILASAM,
NEDUMGOLAM, PARAVUR, KOLLAM.

BY ADV. SRI.SHAMMI VIJAYAN
SRI.RENJITH B.MARAR

RESPONDENTS:

AJAYAKUMAR, S/O.LATE GOPIKKUTTAN,
GOKULATHIL VEEDU, KARIKKAMITTAM MURI,
VETTIKKAVALA VILLAGE, KOTTARAKKARA, KOLLAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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W.P.(C)NO.4992 OF 2007

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Dated this the 14th day of February 2007

JUDGMENT

This writ petition is filed by the petitioners who are additional defendants 2 to 4 in O.S.9/2002 on the file of Munsiff Court, Kottarakkara impugning Ext.P4 order on Ext.P1 application. The said suit was one for specific performance of an agreement executed by the first defendant who is the husband of additional second defendant and the father of additional defendants 3 and 4. Consequent on death of the sole defendant petitioners were impleaded as additional defendants 2 to 4 as his legal representatives. The suit was decreed vide judgment dated 26.9.2005. Petitioners filed appeal accompanied by Ext.P1 application for condonation of delay of 228 days in filing the appeal. The said application was dismissed by the appellate court vide Ext.P4 order dated 13.12.2006.

2. It is contented before me by the learned counsel for the petitioner that Ext.P4 order is passed without properly considering Ext.P1 application. All the same, it is not disputed before me that consequent on dismissal of Ext.P1 application for

condonation of delay vide Ext.P4 order, the appeal filed by the petitioners was also dismissed as barred by limitation. It is for the petitioner in the circumstances to prefer second appeal and to canvas the correctness of the Ext.P4 order in the said second appeal so filed.

This writ petition is not maintainable and it is dismissed.

K.P.BALACHANDRAN, JUDGE

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